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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4409

12 **GEORGE RALPH THIBAUT**
13 **9827 Cedar Street, I**
Bellflower, CA 90706

A C C U S A T I O N

14 **Pharmacy Technician Registration**
15 **No. TCH 8822**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about August 13, 1983, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 8822 to George Ralph Thibault (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on September 30, 2014, unless renewed.

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1 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
2 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
3 whether the act is a felony or misdemeanor or not.

4 ...

5 (h) The administering to oneself, of any controlled substance, or the use of any dangerous
6 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
7 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
8 to the extent that the use impairs the ability of the person to conduct with safety to the public the
9 practice authorized by the license.

10 ...

11 (j) The violation of any of the statutes of this state, of any other state, or of the United
12 States regulating controlled substances and dangerous drugs.

13 ...

14 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
15 violation of or conspiring to violate any provision or term of this chapter
16 [Pharmacy Law, §§ 4000, et seq.] or of the applicable federal and state laws and regulations
17 governing pharmacy, including regulations established by the board or by any other state or
18 federal regulatory agency. . . ."

19 8. Section 4059 states:

20 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
21 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
22 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
23 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
24 3640.7.

25

26 (g) Nothing in this section shall be construed as permitting a licensed physical therapist
27 to dispense or furnish a dangerous device without a prescription of a physician, dentist, podiatrist,
28 optometrist, or veterinarian. . . ."

9. Section 4060 states:

“No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacy technician pursuant to either Section 4052.1 or 4052.2.

This section shall not apply to the possession of any controlled substance by manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.”

10. Health and Safety Code section 11170 states: "No person shall prescribe, administer, or furnish a controlled substance for himself."

REGULATORY PROVISION

11. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

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1 **COST RECOVERY**

2 12. Section 125.3 states, in pertinent part, that the Board may request the administrative
3 law judge to direct a licensee found to have committed a violation or violations of the licensing
4 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
5 case.

6 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

7 13. **Oxycodone**, is a synthetic opioid analgesic, which is classified as a Schedule II
8 controlled substance pursuant to Health and Safety Code section 11055(b)(1)(M) and a dangerous
9 drug pursuant to Business and Professions Code section 4022.

10 14. **Dilaudid**, is a trade name for Hydromorphone, an Opium derivative, which is
11 classified as a Schedule II Controlled Substance pursuant to Health and Safety Code section
12 11055, subdivision (b)(1), and is a dangerous drug within the meaning of Business and
13 Professions Code section 4022.

14 15. **Morphine** is a Schedule II controlled substance pursuant to Health and Safety Code
15 section 11055(b)(1)(L) and a dangerous drug pursuant to Business and Professions Code section
16 4022.

17 16. **Marinol** is a trade name for Dronabinol, a hallucinogenic substance, which is
18 classified as a Schedule III controlled substance pursuant to Health and Safety Code section
19 11056(h) and a dangerous drug pursuant to Business and Professions Code section 4022.

20 **DEFINITIONS**

21 17. **Omniceil** is a computerized single dose medication dispensing machine. The user
22 enters a unique user identified, password and / or thumbprint scan in order to access and dispense
23 medication from the machine. The machine records the user name, patient name, medication,
24 dose, date and time of the dispensing/withdrawal. The Omnicell is integrated with hospital
25 pharmacy inventory management systems.

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1 FACTS

2 Ronald Reagan UCLA Medical Center

3 18. Respondent worked as a pharmacy technician at Ronald Reagan UCLA Medical
4 Center (UCLA Medical Center), 662 Gayley Avenue, Los Angeles, California 90095 from July
5 16, 2002 until June 1, 2011 in the pharmacy department. The pharmacy department operates
6 seven "satellite pharmacies" located throughout the hospital and one "main pharmacy" located in
7 the basement, also referred to as the "vault." While employed at the UCLA Medical Center,
8 Respondent diverted controlled substances and dangerous drugs. The circumstances are as
9 follows:

10 a. On April 27, 2011, an audit of the vault inventory of Oxycodone revealed that ten
11 (10) Oxycodone 30 mg tablets were missing.

12 b. On that same date, the UCLA Medical Center staff, security and the University of
13 California Police Department retrieved and reviewed video from the vault which revealed that, on
14 or about April 15, 2011 at approximately 7:17 a.m., Respondent removed packets of 30 mg
15 Oxycodone pills and concealed them in his pocket.

16 c. On May 4, 2011, a police report was filed with the UCLA Police Department for
17 ten (10) Oxycodone 30 mg tablets that were missing as of April 15, 2011.

18 d. On or about May 4, 2011, the UCLA Medical Center filed a Report of Theft or Loss
19 of Controlled Substances, DEA Form 106, for ten (10) Oxycodone 30 mg tablets that were
20 missing as of April 15, 2011.

21 e. Respondent was on medical leave from the UCLA Medical Center from April 18,
22 2011 through June 1, 2011.

23 f. Upon Respondent's return from medical leave, on or about June 1, 2011, Respondent
24 was questioned about the missing Oxycodone tablets by the UCLA Medical Center staff, and was
25 placed on administrative leave.

26 g. On that same date, Respondent resigned from the UCLA Medical Center.

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Saint John's Health Center

19. Respondent worked as a pharmacy technician at Saint John's Health Center, 2121 Santa Monica Blvd., Santa Monica, CA 90404, from August 16, 2011 until December 22, 2011.

All pharmacy technicians at this facility are trained in restocking the Omnicell machines with dangerous drugs. While employed at the Saint John's Health Center, Respondent diverted controlled substances and dangerous drugs. The circumstances are as follows:

a. In late November of 2011, staff at Saint John's Health Center discovered drug discrepancies that could not be reconciled. Concerned with the discrepancies, a new procedure for restocking controlled drugs was implemented in December of 2011.

b. On December 20, 2011, staff at Saint John's Health Center discovered an unusual pattern of Omnicell discrepancies involving Respondent and several drugs: Hydromorphone, Morphine and Dronabinol.

c. "Null" transactions in the Omnicell occur when drawers are accessed but not restocked. Staff discovered that Respondent had numerous null transactions. Also, on at least four occasions, Respondent, unnecessarily accessed the Omnicell machine one hour after a restock. Respondent opened Omnicell drawers containing controlled drugs without documenting the adding or removing of any drug at least 54 times within four days. Respondent also accessed the Omnicell drawers when he was not scheduled to be on an Omnicell restock shift on December 13, 2011 and December 20, 2011. The null activity events where Respondent accessed the Omnicell drawer containing a controlled drug include the following:

Date	Time	Omnicell Location	Drug
12/5/2011	4:24 p.m.	ER	Hydromorphone 4mg syr
12/5/2011	9:21 p.m.	ER	Hydromorphone 4mg syr
12/5/2011	2:51 p.m	ICU	Hydromorphone 4mg syr
12/5/2011	9:00 p.m.	ICU	Hydromorphone 4mg syr
12/5/2011	9:30 p.m.	Med SURG	Hydromorphone 4mg syr

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12/5/2011	3:58 p.m.	Med SURG	Hydromorphone 2mg syr
12/5/2011	3:59 p.m.	Med SURG	Morphine 10 mg/ml syr
12/5/2011	2:22 p.m.	Oncology	Morphine 2 mg/ml syr
12/5/2011	2:22 p.m.	Oncology	Morphine 4 mg/ml syr
12/5/2011	2:25 p.m.	Oncology	Hydromorphone 2 mg syr
12/5/2011	8:18 p.m.	Oncology	Morphine 2 mg/ml syr
12/5/2011	8:18 p.m.	Oncology	Morphine 4 mg/ml syr
12/5/2011	8:20 p.m.	Oncology	Hydromorphone 4 mg syr
12/5/2011	8:21 p.m.	Oncology	Hydromorphone 4 mg syr
12/5/2011	8:22 p.m.	Oncology	Hydromorphone 2 mg syr
12/5/2011	8:36 p.m.	Orthopedics - ABC	Hydromorphone 2 mg syr
12/5/2011	8:40 p.m.	Orthopedics - DEF	Hydromorphone 4 mg syr
12/5/2011	3:07 p.m.	PCCU	Morphine 8 mg/ml syr
12/5/2011	3:20 p.m.	PCCU	Hydromorphone 2 mg syr
12/5/2011	9:04 p.m.	PCCU	Hydromorphone 4 mg syr
12/5/2011	2:13 p.m.	VIP	Hydromorphone 2 mg syr
12/5/2011	2:15 p.m.	VIP	Morphine 2 mg/ml syr
12/5/2011	2:15 p.m.	VIP	Morphine 4 mg/ml syr
12/5/2011	8:14 p.m.	VIP	Morphine 2 mg/ml syr
12/5/2011	8:14 p.m.	VIP	Hydromorphone 2 mg syr
12/6/2011	8:51 p.m.	ER	Morphine 4 mg/ml syr
12/6/2011	3:35 p.m.	Women's Health	Morphine 4 mg/ml syr
12/6/2011	3:39 p.m.	Women's Health	Morphine 4 mg/ml syr
12/6/2011	3:46 p.m.	Women's Health	Morphine 4 mg/ml syr
12/6/2011	3:46 p.m.	Women's Health	Morphine 4 mg/ml syr
12/6/2011	4:23 p.m.	Med SURG	Morphine 10 mg/ml syr
12/6/2011	2:19 p.m.	Oncology	Hydromorphone 2 mg syr

1	12/6/2011	2:19 p.m.	Oncology	Morphine 2 mg/ml syr
2	12/6/2011	2:19 p.m.	Oncology	Morphine 4 mg/ml syr
3	12/6/2011	7:53 p.m.	Oncology	Hydromorphone 4 mg syr
4	12/6/2011	7:56 p.m.	Oncology	Morphine 10 mg/ml syr
5	12/6/2011	7:58 p.m.	Oncology	Morphine 4 mg/ml syr
6	12/6/2011	7:58 p.m.	Oncology	Morphine 2 mg/ml syr
7	12/6/2011	3:05 p.m.	PCCU	Hydromorphone 2 mg syr
8	12/6/2011	3:06 p.m.	PCCU	Morphine 4 mg/ml syr
9	12/6/2011	3:06 p.m.	PCCU	Morphine 4 mg/ml syr
10	12/6/2011	8:39 p.m.	PCCU	Morphine 4 mg/ml syr
11	12/6/2011	8:41 p.m.	PCCU	Morphine 4 mg/ml syr
12	12/6/2011	8:10 p.m.	Women's Health	Morphine 10 mg/ml syr
13	12/6/2011	2:08 p.m.	VIP	Hydromorphone 2 mg syr
14	12/6/2011	2:08 p.m.	VIP	Morphine 2 mg/ml syr
15	12/6/2011	2:08 p.m.	VIP	Morphine 2 mg/ml syr
16	12/6/2011	2:09 p.m.	VIP	Morphine 4 mg/ml syr
17	12/13/2011	10:17 p.m.	VIP	Hydromorphone 4 mg syr
18	12/13/2011	10:18 p.m.	VIP	Hydromorphone 4 mg syr
19	12/13/2011	10:19 p.m.	VIP	Hydromorphone 4 mg syr
20	12/20/2011	12:52 p.m.	Oncology	Dronabinol 5 mg cap
21	12/20/2011	7:28 p.m.	Oncology	Dronabinol 5 mg cap
22	12/20/2011	12:32 p.m.	Orthopedics - DEF	Morphine 8 mg/ml syr

d. On or about December 21, 2011, Respondent's access to the Omnicell machine was terminated and he was removed from the Omnicell restock shift.

e. The next day, Respondent resigned from the Saint John's Health Center.

1 f. On or about January 12, 2012, Saint John's Health Center filed a Report of Theft or
2 Loss of Controlled Substances, DEA Form 106, for the following tablets that were missing as of
3 December 20, 2011:

4 11 doses - Morphine 8 mg/ml Syringe;

5 20 doses - Morphine 10 mg/ml Syringe;

6 1 dose - Hydromorphone 2 mg/ml Syringe;

7 1 dose - Dronabinol 5 mg capsule.

8
9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Possession of Controlled Substance Without a Prescription)**

11 20. Respondent is subject to disciplinary action under section 4060 as follows:

12 a. While employed as a pharmacy technician at UCLA Medical Center, Respondent
13 unlawfully possessed controlled substances that were not furnished to him upon prescription of a
14 physician on April 15, 2011. Complainant refers to and by this reference incorporates the
15 allegations set forth above in paragraph 17, subparagraphs a - g, inclusive, as though set forth
16 fully.

17 b. While employed as a pharmacy technician at Saint John's Health, Respondent
18 unlawfully possessed controlled substances that were not furnished to him upon prescription of a
19 physician from on or about December 5, 2011 through December 20, 2011. Complainant refers
20 to and by this reference incorporates the allegations set forth above in paragraph 18,
21 subparagraphs a - f, inclusive, as though set forth fully.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct: Acts Involving Dishonesty)**

24 21. Respondent is subject to disciplinary action under sections 4300 and 4301,
25 subdivision (f), as follows:

26 a. While employed as a pharmacy technician at UCLA Medical Center, Respondent
27 unlawfully possessed controlled substances that were not furnished to him upon prescription of a
28 physician on April 15, 2011. Complainant refers to and by this reference incorporates the

1 allegations set forth above in paragraph 17, subparagraphs a – g, inclusive, as though set forth
2 fully.

3 b. While employed as a pharmacy technician at Saint John's Health, Respondent
4 committed acts involving dishonesty when unlawfully possessed controlled substances that were
5 not furnished to him upon prescription of a physician from on or about December 5, 2011 through
6 December 20, 2011. Complainant refers to and by this reference incorporates the allegations set
7 forth above in paragraph 18, subparagraphs a – f, inclusive, as though set forth fully.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct: Violation of the Nursing Board Act)**

10 22. Respondent is subject to disciplinary action for violating under sections 4300 and
11 4301, subdivision (j), as follows:

12 a. While employed as a pharmacy technician at UCLA Medical Center, Respondent
13 unlawfully possessed controlled substances that were not furnished to him upon prescription of a
14 physician on April 15, 2011. Complainant refers to and by this reference incorporates the
15 allegations set forth above in paragraph 17, subparagraphs a – g, inclusive, as though set forth
16 fully.

17 b. While employed as a pharmacy technician at Saint John's Health, Respondent
18 unlawfully possessed controlled substances that were not furnished to him upon prescription of a
19 physician from on or about December 5, 2011 through December 20, 2011. Complainant refers
20 to and by this reference incorporates the allegations set forth above in paragraph 18,
21 subparagraphs a – f, inclusive, as though set forth fully.

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board of Pharmacy issue a decision:

25 1. Revoking or suspending Pharmacy Technician Registration Number TCH 8822,
26 issued to George Ralph Thibault;

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1 2. Ordering George Ralph Thibault to pay the Board of Pharmacy the reasonable costs
2 of the investigation and enforcement of this case, pursuant to Business and Professions Code
3 section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.

5 DATED: 1/17/13


VIRGINIA HEROLD

Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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